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7 **UNITED STATES DISTRICT COURT**  
8 **NORTHERN DISTRICT OF CALIFORNIA**

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10  
11 SETA SAAD and CHRISTIAN E. SAAD, ) Case No: C 08-00053-PJH  
12 individually and as representatives of the )  
Estate of Raymond Saad, )  
13 Plaintiffs, ) **NOTICE THAT THIS MATTER IS NOT**  
14 v. ) **TRANSFERRED AND THIS COURT**  
15 GUIDANT CORPORATION; GUIDANT ) **HAS JURISDICTION**  
16 SALES CORPORATION; CARDIAC )  
PACEMAKERS, INC.; BOSTON )  
17 SCIENTIFIC CORPORATION; ASHLEY & ) Hearing Date: February 20, 2007  
18 MCMULLEN-WING SUN MORTUARY, a )  
business entity form unknown, ASHLEY & ) Time: 9:00 a.m.  
19 MCMULLEN, a business entity form ) Location: Courtroom 3, 17<sup>th</sup> Floor  
unknown; and DOES 1 through 20, ) Honorable Phyllis J. Hamilton  
inclusive, )  
20 Defendants. ) Removal Filed: January 4, 2008

21  
22 **PLEASE TAKE NOTICE THAT THIS COURT HAS JURISDICTION**

23 **OVER THIS MATTER DESPITE THE CONDITIONAL TRANSFER ORDER**

24 On January 28, 2008, the Judicial Panel Filed a Transfer Order of this and other  
25 Guidant cases; however, the order explicitly states that the transfer:

1 order does not become effective until it is filed in the Office of the Clerk of  
2 the United States District Court for the District of Minnesota. The  
3 transmittal of this order to said Clerk shall be stayed 15 days from the  
4 entry thereof. If any party files a notice of opposition with the Clerk of the  
5 Panel within this 15-day period, the stay will be continued until further  
6 order of the Panel.<sup>1</sup>

7 Plaintiffs have filed a Notice of Opposition to the transfer based upon the  
8 impropriety of removal and to afford this Court ample time to hear and consider the  
9 remand issue.<sup>2</sup> As a result of filing the Notice of Opposition to the transfer, the JPML  
10 will not transfer the case until after this Court has had an opportunity to consider and  
11 rule on the motion for remand. Indeed the JPML Rules explicitly grant parties the right  
12 to stay the transfer in order that parties have the right to address improprieties  
13 concerning federal and/or JPML jurisdiction.<sup>3</sup> Moreover, the JPML explicitly recognizes  
14 that this Court may remand the matter and has simply asked to be notified of a remand  
15 (presumably so they will know that the federal court no longer has jurisdiction).<sup>4</sup> If this  
16 Court grants Plaintiffs' Motion For Remand, Plaintiffs will promptly notify the JPML of  
17 same.

18 Dated: February 4, 2008



19 By: Jeremy R. Fietz, Esq. (State Bar No. 200396)  
20 EDGAR LAW FIRM  
21 408 College Avenue  
22 Santa Rosa, CA 95401

23 <sup>1</sup> JPML Conditional Tranfer Order is attached to the Supplemental Declaration of  
24 Jeremy R. Fietz as Exhibit B.

25 <sup>2</sup> See Plaintiffs' letter Notice of Opposition dated February 4, 2008, attached hereto as  
Exhibit C.

<sup>3</sup> See JPML Rule 7.4 attached to the Supplemental Declaration of Jeremy R. Fietz as  
Exhibit D

<sup>4</sup> See letter from the JPML attached to the Supplemental Declaration of Jeremy R. Fietz  
as Exhibit E.

## **PROOF OF SERVICE**

I am employed in the City and County of Santa Rosa, State of California. I am over the age of 18 and not a party to the within action. My business address is 408 College Avenue, Santa Rosa, California 95401. On February 4, 2008, I served the foregoing document(s) described as:

**NOTICE THAT THIS MATTER IS NOT TRANSFERRED AND  
THIS COURT HAS JURISDICTION**

on the interested parties by placing (  ) the original (  ) a true and correct copy thereof in a sealed envelope addressed as follows:

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**Attorneys for Guidant Corporation,  
Guidant Sales Corporation; Cardiac  
Pacemakers, Inc., and Boston  
Scientific Corporation**

## **Attorneys for Cathay Mortuary Wah Sang Inc. dba Ashley & McMullen Mortuary**

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VIA OVERNIGHT MAIL:

VIA : By delivering such documents to an overnight mail service or an authorized courier in an envelope or package designated by the express service courier addressed to the person(s) on whom it is to be served.

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VIA U.S. MAIL:

I am readily familiar with the firm's practice for collection and processing of correspondence for mailing. Under that practice such envelope(s) would be deposited with the U.S. postal service with postage thereon fully prepaid, at Santa Rosa, California.

X

FEDERAL:

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

I declare under penalty of perjury under the laws of the state of California that the above is true and correct and was executed on February 4, 2008

on February 4, 2006  
  
JEREMY R. PIETZ